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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,517	11/13/2001	Miksa Marton	04004.003	4778

7590

08/27/2003

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EXAMINER

SHAKERI, HADI

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 08/27/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,517

Applicant(s)

MARTON, MIKSA

Examiner

Hadi Shakeri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 4-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-3, in Paper No. 03 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitation "sanding pad passageways" in line 25. There is insufficient antecedent basis for this limitation in the claim. It appears that it is referring to the apertures, then it may be amended to recite, --said plurality of apertures--.

Claim Rejections - 35 USC § 102

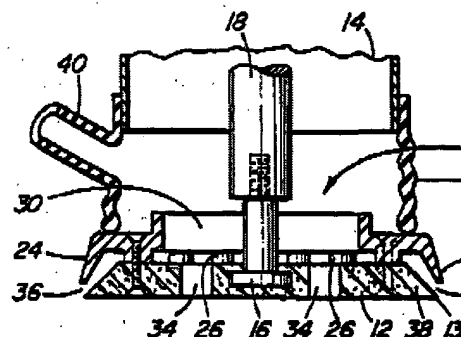
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

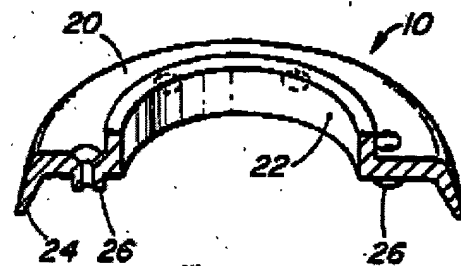
6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Marton, US Patent No. 4,616,449.

Marton discloses all the limitations of claim 1, i.e., a suction ring (10) disposed between a sanding pad assembly (12) and the suction housing (14) comprising a circumferential sidewall including



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first and second edges, one defining an opening and adapted to mount to the pad assembly (26); a circular back wall, being continuous with the other of the edges



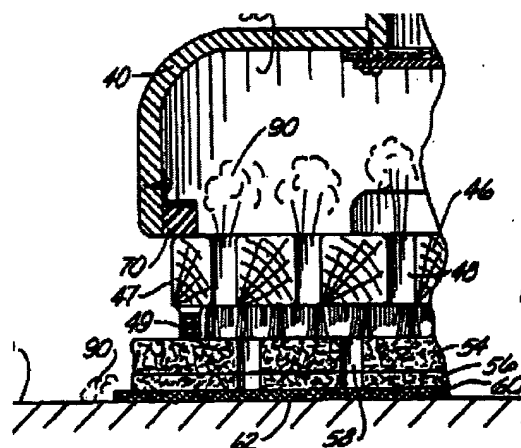
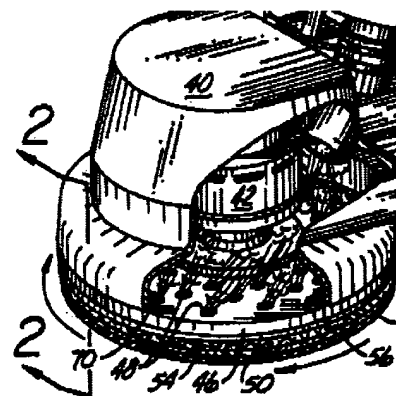
Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Takashima, US Patent No. 5,027,470.

Takashima discloses all the limitations of claim 1, i.e., a suction ring (lower part of 40) disposed between a sanding pad assembly (44) (52), and the suction housing (upper part of 40 surrounding the motor) comprising a circumferential sidewall including first and second edges, one defining an opening (sealed by 70), and adapted to mount to the pad assembly, i.e., (44); a circular back wall (lower part meeting the upper part), being continuous with the other of the edges, since rotatable shaft with an off-set portion as recited in the preamble is not linked into the body of the claim, Takashima is considered to meet all the limitations of claim 1, however, in the alternative the housing and structures of the invention of Takashima in an off-center shaft, e.g., orbital sander, depending on the intended



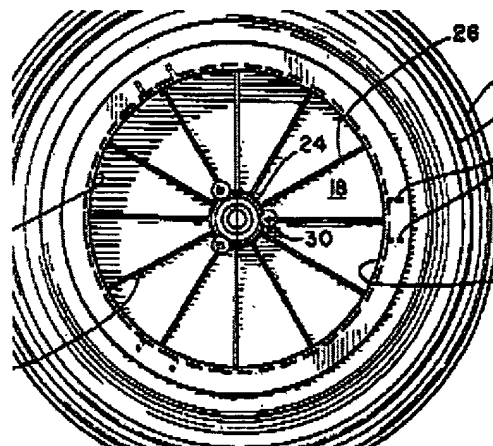
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use and/or operational parameters, modification within the knowledge of one of ordinary skill in the art, would meet all the limitations of the claim.

Regarding claim 3, Takashima discloses the claimed invention except for the use of the specific materials. It would have been obvious to one having ordinary skill in the art at the time the invention was made to aluminum for its desired properties, e.g., light weight, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takashima in view of Kitahata, US Patent No. 5,172,448.

Takashima meets all the limitations of claim 2, except for ribs radially disposed and extending from the sidewall to the like plurality of legs. Kitahata teaches buffer pad assembly having a plate (18) reinforced with radially extending ribs (26). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Takashima with reinforcing ribs as taught by Kitahata to stiffen the ring, e.g., in application wherein a weaker material is used for the housing, e.g., syntactic resin, aluminum...depending on the operational and/or cost parameters.



10. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marton in view of Kitahata.

Marton meets all the limitations of claim 2, except for ribs radially disposed and extending from the sidewall to the like plurality of legs and material used. Stiffing the ring in view

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of Kitahata and use of aluminum, as explained above, i.e., cost parameters and selecting a known material on the basis of its suitability for the intended use, would be within the general skill of a worker in the art.

Conclusion

11. Prior art made of record and not relied upon are considered pertinent to applicant's disclosure. Thielen, and Leppert et al. are cited to show related inventions.

12. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Hadi Shakeri at (703) 308-6279, FAX (703) 746-3279 for unofficial documents. The examiner can normally be reached on Monday-Thursday, 7:30 AM to 6:00 PM. All official documents may be faxed to (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1148.



Hadi Shakeri

Patent Examiner

August 22, 2003